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>> DOUGLAS KELLNER: Good afternoon.

We'll call the meeting to order.

My name is Doug Kellner.

>> NEIL KELLEHER: Commissioner Neil Kelleher, the other cochair.

>>: Evelyn Aquila, Brooklyn, New York.

>> DOUGLAS KELLNER: I would like to go around the room and have the staff present to identify themselves and thin our guests.

>>: Stanley as a lean.

>>: Bob bren.

>>: Lee Daghlian.

>>: Todd Valentine.

>>: Bo.

>>: Reporter for verified voting.

>>: Andy ville din.

>>: Mary Murphy, Santos county.

>>: Bob bankruptcy back.

>>: (Off microphone.)

>>: State board of elections.

>>: Steven Jones from Madison county.

>> DOUGLAS KELLNER: Women come to all of you.

--

welcome to all of you.

If the other Commissioners do not object, I propose that we take the review of the petitions that were filed with the State board first and then we will do the unit updates and then we'll turn to new business. My understanding of the new business items that we have are the approval of the contracts.

Then I would like to discuss the --

I'm sorry, the first new business item will be the approval of the procedures for the ballot marking devices.

Then contract issues.

And then I wanted to discuss the request from open voting solutions regarding waiver certification fees and then Andrea Novik's request regarding the qualifications of

vendors.

Are there any other items that we should be adding on the new business agenda?

>>: The ballot proposal for 2007?

The question and abstract?

>> DOUGLAS KELLNER: Okay.

Why don't we do that during your report?

>>: We can.

>> DOUGLAS KELLNER: That's fairly routine.

Thank you, Todd.

>> TODD VALENTINE: It is.

>> DOUGLAS KELLNER: Anything else?

Why don't we start with the reports on the petitions filed with the State Board of Elections.

Todd?

>> TODD VALENTINE: You should have a copy that was updated just this morning with our review of petitions, review indicating four petitions that have been reviewed by staff.

And indicating each in brief, the reason, the basis for their recommendation of being invalid.

Usually for prima facie review we do them all at once but we can do them on a per petition basis as well.

>> DOUGLAS KELLNER: We have the first two were the, I think we should separate them out because of the issues.

>> TODD VALENTINE: Okay.

The first --

>> DOUGLAS KELLNER: Actually, I had one question.

They may all actually fall into the same issue.

You have three of them here filed with the wrong Board of Elections.

>> TODD VALENTINE: That's correct.

The third one --

>> DOUGLAS KELLNER: The third one didn't, but I wasn't sure why that's not filed with the wrong Board of Elections because I had asked somebody to bring up the state democratic rules here.

Stanley, any progress on that?

>> WOMAN: I gave them to you, Doug, when we were in the office.

>> DOUGLAS KELLNER: Sorry.

What do they look like, Liz?

Good, okay.

So on six-124 of the election law says the judicial delegates should be elected from an assembly district and where the assembly district crosses county lines, party rules govern on whether the delegates are elected from the entire assembly district or only from the part of the assembly district within each county.

So my question is, in the state rules, what is the provision in, that would govern the 11th assembly district with respect to whether or not that assembly district is divided by county?

>> TODD VALENTINE: Hmm, I don't know.

I mean, I guess I only would respond that the problem with the petition as was identified was that there was no information as to what assembly district it is on the pig itself. It's just not there.

It's missing.

>> DOUGLAS KELLNER: Well, yeah, I understand that.

>> TODD VALENTINE: So we have a chart that is broken down based upon the party rules of where to file.

I don't have that with me because I wasn't prepared to answer that question.

>> DOUGLAS KELLNER: All right.

>> TODD VALENTINE: We can get it.

>> DOUGLAS KELLNER: We have Mr. Jones with us, is it?

>>: Yes.

>> DOUGLAS KELLNER: Who is the attorney for the candidates on that petition?

>>: Yes.

>> DOUGLAS KELLNER: Is it all right if we take that one out of order since we have a representative of the candidates here?

Mr. Jones, I think we all received your memorandum.

Is that true?

Neil, you have it?

>> WOMAN: I received it, too.

>> DOUGLAS KELLNER: Todd, did you look at the memo?

>> TODD VALENTINE: I did.

You know --

But I --

>> DOUGLAS KELLNER: I am will, I mean, I looked at the memo.

Then I say gee, when I was New York City Commissioner, we actually lost on one of these cases.

Our case was Dotson versus New York City Board of Elections, which is 2001 miscellaneous Lexus 594 and then there are two appellate division decisions of the third department, dun Lee versus New York Board of Elections which is a 2000 case, 275AD --

what?

>>: I litigated that.

>> DOUGLAS KELLNER: So you are familiar with it.

And Carucchio versus fox the year after that which you also litigated.

>> TODD VALENTINE: I did.

I am familiar with the issue and I'll show you the petition and understand why I think the staff ruled as they did.

The petition itself doesn't indicate at all anywhere the district number, whether it's the --

>> DOUGLAS KELLNER: How is that different from the cases?

In the Dotson case it actually had the wrong district on it.

>> TODD VALENTINE: Right.

>> DOUGLAS KELLNER: The Court ruled that even though it was the wrong district, it was obvious from the residence of the candidate and from the residence of the overwhelming majority of the signatories on the petition that that was enough to show you that you should have known it was the wrong district.

That's what the Court ruled.

And I might add, I had voted at the city Board of Elections to take the candidate off the ballot.

But I think the case law now is that if you can figure it out from the addresses and from the signatures, you know, where the petition was circulated, that even though they have technically failed to comply with the requirement to identify the district, that as long as you can tell from the document that you should do that.

And I notice that in the Hays case last year, the appellate division for the third department repeated that rule.

Although in that case they said Tahoe couldn't tell.

And they --

That you couldn't tell.

And they showed why it was different that you couldn't tell in that case.

Well, I think, I mean, that's my review of the case law.

My conclusion is that we can tell from this petition that it was meant to be the 111th assembly district.

I raise the additional question, though: why is this petition being filed with the State Board of Elections rather than with the Madison county Board of Elections?

>>: It has always been my understanding under the state party rules we are not electing our delegates just from Madison county but from the entire 111th within the sixth district.

I was instructed to file it here within the state board.

>>: I think that's correct.

>> TODD VALENTINE: Commissioner, I don't disagree with you.

If the rules --

This was not, I didn't research that issue because I was not aware of it.

>> WOMAN: Right.

>> TODD VALENTINE: If this assembly district is wholly contained within that county, from that portion of the judicial district and it's not appropriate to file here, then it one indeed be at the wrong Board of Elections.

>> DOUGLAS KELLNER: Do we get a party call?

>> TODD VALENTINE: We do receive a party call.

>> DOUGLAS KELLNER: What does the party call say about the judicial delegates?

>>: It tells us how many, but not where the petition is filed.

>> TODD VALENTINE: That's based on, there's a where to file charge actually developed.

>>: Yes.

>> DOUGLAS KELLNER: What does the where to file charge say?

Ted to do I don't know.

>>: That it would be filed here.

The only thing I can think of, perhaps the 111 is in two judicial districts.

>>: It is indeed.

Actually it's within two different departments.

The 111th, some of it is within Oneida county, the fourth department.

We are also in Madison county and Oswego county.

It's clear from the face of the petition that this is for the sixth judicial district, 111th, which is all of Madison county and a small portion of Oswego county.

>>: Even if that wasn't the case, I'm willing to support petitions that were filed here.

We are the Board of Elections.

And we are the named Board of Elections for this state.

And since the last couple of years so much has been changing, if people make that error, I think that's an error that you can, that we can stand because they've got

it here on time.

They've got the correct number of signatures.

And for us to say, well, it's too late to pass it down to the county, I think anything that gets here on time but belongs in another county should be sent overnight to that county for this to handle.

I think they did come on time to a legal body, to the correct body, Board of Elections.

The overwhelming body Board of Elections for the state of New York.

I don't see that as a real, what shall we say, terminal error.

>> DOUGLAS KELLNER: Todd, was any of this information presented today by Commissioner Kellner, were you aware of that before?

>> TODD VALENTINE: No, I wasn't aware that those were the issues being raised.

>> EVELYN AQUILA: Look at the rules of the Board of Elections.

>> TODD VALENTINE: No other staff apprised me of that at all.

>> DOUGLAS KELLNER: I think at this point I am willing to drop the issue of the party rules.

Nobody seems to be on top of that.

That doesn't seem to be an issue.

Then it just comes down to the issue of whether, you know, in accordance with the appellate issues from the four corners, looking at the candidates and the people who signed the petition, we should be able to tell that yes, this was for the 111th assembly district.

>>: My proposal is that the answer is yes on that.

>> DOUGLAS KELLNER: So I'm prepared to vote in favor of validation.

>> EVELYN AQUILA: Valid, I agree.

>> DOUGLAS KELLNER: Anything else you would like to say on it?

>> NEIL KELLEHER: I wanted to ask to do if the information that Commissioner Kellner presented, does that negate the fact that the recommendation is from you is invalid?

Or is indeed that still there?

>> TODD VALENTINE: That's the staff recommendation, invalid.

>> NEIL KELLEHER: And remains as such?

>> TODD VALENTINE: I guess.

>> NEIL KELLEHER: My vote is to invalidate.

>> DOUGLAS KELLNER: I didn't call for the vote yet.

>> EVELYN AQUILA: I did the same thing.

>> DOUGLAS KELLNER: Is there anything else you want to say, Mr. Jones, before we vote?

>>: Mr. Jones: No, thank you for considering our request.

>> DOUGLAS KELLNER: On the question of the validity of the Serio position, how all in favor?

>> NEIL KELLEHER: Invalid.

>> EVELYN AQUILA: Valid.

>> DOUGLAS KELLNER: It's two valid, one invalid.

So it stands.

The next one we will take up is the petitions for the winnie and Thedis petitions for the --

101st assembly district and the Thedis petition is the won hundred third judicial district.

Are there any submissions on this other than the actual petition documents?

I mean, we got this e-mail from Commissioner Knapp.

Has that been circulated?

It's not really part of the record.

>> EVELYN AQUILA: This is one, two, and three?

Winnie and --

>> DOUGLAS KELLNER: All right, Todd, on the question you want to just explain the staff recommendation?

>> TODD VALENTINE: Well, mirrors the same discussion we had.
Our --

>> DOUGLAS KELLNER: As I say, I think it's a little.
The discussion on the 111th --

>> TODD VALENTINE: There were two parts to it.

>> DOUGLAS KELLNER: I'm sorry, go ahead.

>> TODD VALENTINE: The issue was, this was, according to our reading of the rules is that this should have been filed in both of those, this petition should have been filed in Dutchess county.

It was received here.

So it was at the wrong Board of Elections.

>> DOUGLAS KELLNER: Now, all right, where does it come from that it has to go to Dutchess rather than here?

What is the statutory basis for that?

>> TODD VALENTINE: For offices that cross district lines?

>> DOUGLAS KELLNER: Well, all right, see, the question here again is the 101st and 103rd assembly districts, are they totally contained within Dutchess county?

>> TODD VALENTINE: Our understanding --

>> DOUGLAS KELLNER: Let's start with that question.

Is the 101st assembly district within Dutchess county?

>> TODD VALENTINE: I'm not prepared to answer that question.

>> DOUGLAS KELLNER: How can we tell if it's in the wrong office unless we know that the petition was required to be filed.

>> TODD VALENTINE: Before the filing period begins what we could and we post this on our website is we take a list of the boundaries of the judicial districts and then the boundaries of the assembly districts and whether they cross assembly districts cross county lines and whether an assembly district does not cross county lines but stays within the district.

As a result of that the staff produces a chart which indicates where things are filed.

This is our where filed chart for ease of remembering.

The items in bold indicate that they are petitions that need to be filed here at the State Board of Elections.

The other indicates that --

>> DOUGLAS KELLNER: My question is, what is the statutory basis for this?

In other words, how is it that staff determine that the 101st assembly district petition gets filed in Dutchess county rather than with the State Board of Elections?

>> TODD VALENTINE: Well, I don't know the cite toach, but that's based upon the statutory that, the statute that requires petitions which cross county lines outside of the City of New York are required to be filed at the State Board of Elections.

>> DOUGLAS KELLNER: Now, the 101st assembly district is more than one county, right?

>> WOMAN: Yes.

>> TODD VALENTINE: Yes, except in this instance under party rules as the office is defined, you run from an assembly district, but you run from an assembly district within a judicial district.

while it is an assembly district it may be limited by the size of the judicial district.

>> DOUGLAS KELLNER: My question is: where is the party rule that says that?

we just said for the 111th assembly district in --

was it Madison and Osego counties, that it crosses the county line and that this is the proper place to file.

why is it in the 101st assembly district that they are running from only part of an assembly district rather than the whole?

>> TODD VALENTINE: Pursuant to the party call that is filed, they indicate that the 101st has a portion in you will center county, in the third judicial descrukt.

There's a portion of the 101st which is in Duches county the Ninth Judicial district.

>> DOUGLAS KELLNER: So does the party call --

>> TODD VALENTINE: That would indicate where that office, that would substantiate the party rule, which defines the office as running from the portion of the assembly district within the judicial district and that gives us how many, the area of the district as well as the number of delegates in order to determine overdesignations, which is not an issue here.

>>: There is a difference between the first one that you dealt with because that was more than one county for the same judicial district and then in the case of Duches county it's two different judicial districts for the same assembly district.

They can't run from the whole assembly district because part of that is in a different department.

I think that's what Todd said.

>> TODD VALENTINE: It's a different translation, but it works.

>> DOUGLAS KELLNER: Then this is our list?

>> TODD VALENTINE: Yes, that's our where the files are, which we post on our website as part of our running for office section.

>> NEIL KELLEHER: Where does it say where you file?

>> TODD VALENTINE: That's the result, that's the end result, taking the assembly districts and the judicial districts.

>> DOUGLAS KELLNER: I'm sorry, I still don't understand.

>> TODD VALENTINE: Anything in bold, the items, the assembly districts in bold file
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at the State --

>> DOUGLAS KELLNER: I see.

>> TODD VALENTINE: The legend might be at the front page.

We have been using it so long, that's how I know.

I think the website has a different legend, but it's the same chart.

>> DOUGLAS KELLNER: Now, this doesn't have it broken down by party. Does that mean that all five parties have the same procedures on whether --

>> TODD VALENTINE: No.

>> DOUGLAS KELLNER: --

They cross county lines?

>> TODD VALENTINE: No, four of the five parties have the same procedures.

Republican rules file differently.

They file all from the portion of the county within the assembly district then the judicial district.

Which means that Republican judicial delegate petitions are always filed at the local Board of Elections.

They are never filed here at the State Board of Elections.

The other four parties rules are, all end up with this chart.

Have this result.

I don't know if that's explained at the beginning.

It's just --

Because that's an internal chart that we use.

It is explained, there's a public chart that we disseminate.

We use that because it's --

We know what it means.

That's not disseminated publicly.

>> EVELYN AQUILA: Todd, have any of these been challenged?

>> TODD VALENTINE: No objections have been filed.

>> EVELYN AQUILA: No objections.

>> TODD VALENTINE: These were just ruled on their face.

Or recommended.

>> EVELYN AQUILA: You know, prima facie.

(Chuckles.)

>> EVELYN AQUILA: But they could also be challenged, even though --

>> TODD VALENTINE: At this late date, objections could not be.

>> EVELYN AQUILA: I mean early on.

(Overlapping speakers).

>> TODD VALENTINE: Yes.

>> DOUGLAS KELLNER: This couldn't be it.

This doesn't discriminate between --

>>: State and judicial district.

>> DOUGLAS KELLNER: So the rules are just silent on it.

>>: We have been asked by law to --

>> DOUGLAS KELLNER: This is the first time I have ever addressed it.

I know back in the days that in the second judicial district, in the 60th, kings and

Richmond both have separate parts, right?

>> EVELYN AQUILA: Yes, absolutely.

We have had problems with that.

>> DOUGLAS KELLNER: Where does that come from the State rules?

>> EVELYN AQUILA: I don't know.

But it always has been and there's always been a problem with that that I can remember.

I know anybody who has been taken off has always been put back on by the Court. i, for that first, second, 11th and 12th judicial districts?

>> EVELYN AQUILA: Yeah.

>> TODD VALENTINE: Well, the 11th and 12th, all four of those are wholly contained within New York City.

>> EVELYN AQUILA: I know that.

I know.

>> DOUGLAS KELLNER: The statute --

>> EVELYN AQUILA: Different counties.

>> DOUGLAS KELLNER: You and Peter can look at this.

6124

>> EVELYN AQUILA: Staten Island belongs with kings county judicial --

>> DOUGLAS KELLNER: First sentence, judicial district convention shall be constituted by the election at the preceding primary of delegates and alternate delegates if any from each assembly district or if an assembly district shall contain all or part of two or more counties, and if the rules of the party shall so provide, separately from the part of such assembly district contained within each such county.

So unless there's a party rule splitting the a seem pi district, the delegates have to be elected from the whole assembly district.

There's the additional problem, if the assembly district crosses a judicial district boundary.

>> TODD VALENTINE: I agree with you there.

>>: Let me say, is the case here that these assembly districts cross judicial district lines is that the case here?

It has nothing to do with party rule?

This case here has to do with the fact that you cross political boundaries.

Has nothing to do with the party rule telling you what to do.

>> DOUGLAS KELLNER: Where does it --

>>: It has everything to do with the fact that the assembly district because it crosses a political boundary, being a judicial district, you can only run from that part of your assembly district in your judicial district.

Obviously, you can't run in a judicial district within which you do not reside.

>> EVELYN AQUILA: Right.

>>: Because of that, you have to run from the part of your assembly district that is still in your judicial district.

>> EVELYN AQUILA: Absolutely right.

>>: In that case it is wholly contained within a county.

Under those conditions you have to file within the county.

That's how you get there.

I don't think party rules have anything to do this.

>>: We are saying the same thing.

>> TODD VALENTINE: It's 6144 is the operative language telling you where to file.

>> EVELYN AQUILA: I know, they should have been filed in the county.

But I feel they will be immediately put back on because they did come and file here which we oversee all of the counties.

It isn't like they went to the wrong county.

>>: I'm trying to understand, if Commissioner Kellner agrees that the filing was to be in the county, I think you're questioning that issue.

>> EVELYN AQUILA: I'm not questioning it, but I believe we have to be liberal in our review of that.

>>: I understand.

>> EVELYN AQUILA: Because I believe the Court will immediately put them back on. why should we make people go to that next step.

It is going to happen.

It has happened in the past and will happen again.

I think since they came to us and we oversee every county in the case, that filing with us is not, shall we say, a reason to terminate a petition.

>>: If I can just speak to that for a second, I think the reason this comes up and you raised it is the objection process.

If I am going to have a potential objection to a petition and I'm looking for it in a particular board and it oh he not there, I don't even know it was filed.

The issue as I see it, if I'm a potential objector and go to the dush he is county board and say did anyone file in the 111th --

>> EVELYN AQUILA: That's why we hold on to them even past the day.

>>: Then I have nothing object to and I have to come to the state and I don't know that.

I guess that's probably the issue as to whether or not you have to file it in the proper --

>> EVELYN AQUILA: They were filed here on time.

The day they arrived here, they should have been immediately sent to the county where they belong and be considered that they filed on time, because they did file on time.

>> DOUGLAS KELLNER: what happened in your operations?

When they file and they file in the wrong place, how long did it take you to figure out that they were in the wrong place?

>> WOMAN: We review them usually within a day.

Anything that gets filed with us, when staff, when staff does data entry, they immediately flag it if it doesn't belong here.

If we can put a valid postmark on it, we overnight it to the correct board.

This petition had a valid postmark to us, but didn't appear here until after the filing period had physically closed.

>> EVELYN AQUILA: That's a technical thing.

>> WOMAN: We would not have been able to put a valid postmark on it to get Toyota the right board. We had other petitions filed with us on Monday and Tuesday of petition week. We immediately put them in overnight.

>> DOUGLAS KELLNER: Have we sent it to the Duchess board at all?

>> WOMAN: No.

>> EVELYN AQUILA: It should be sent.

>> WOMAN: It has been our policy that if we can make it valid with a valid postmark, we'll do it.

If we can't get it in the mail --

>> EVELYN AQUILA: But in the past, the Courts have not agreed with us on that. There are a couple of places that they have not agreed.

>> DOUGLAS KELLNER: Is there a case, Evelyn?

I'm not aware.

>> EVELYN AQUILA: I remember a case that we did.

I remember --

>> DOUGLAS KELLNER: What is it?

So we can look at it.

>> NEIL KELLEHER: What case is it?

>> EVELYN AQUILA: I just remember, I remember that we had a case exactly like this. They filed here.

They should have filed in another county.

We knocked them out and they got put back on.

I spoke to Stanley about it.

Besides that, the Court does say we should look at these things liberally.

Isn't that word in there, liberally?

This is not liberal.

I mean, the person goes out and gets all the signatures, everything is proper.

>> DOUGLAS KELLNER: We can't put them on the ballot because we are not the agency authorized to put them on the ballot.

>> EVELYN AQUILA: We should have sent them immediately, as long as they were on time.

>> DOUGLAS KELLNER: We should let Duchess decide what to do.

>> EVELYN AQUILA: Here is the date of our stamp.

We received these on time.

We received it on time.

Even if it was the last day.

>>: I can muddy the waters even more, if you like.

The Duchess county board, we send out a notice to counties to provide us with local filer information.

We prepare the roll calls for all of these conventions.

Duchess county sent us an e-mail listing all the people on the file here as having been local filers at their own board.

>> DOUGLAS KELLNER: If they've already certified them, that's --

>> WOMAN: I'm not sure that both Commissioners certified them.

The meafI didn't come from them.

It was provided to list Shaw of our staff --

Lisa Shaw of our staff.

>> DOUGLAS KELLNER: Anybody else hop wants to be heard on this?

All right, then.

My view is that we don't have jurisdiction over this because we are not the board for them to file in.

So that it's a matter for the Duchess board to decide.

But there is nothing we can do to rule on the validity or invalidity of the petition.

It is not our petition.

That's my position on it.

>> EVELYN AQUILA: It seems reasonable.

Now, will Duchess accept them?

>> DOUGLAS KELLNER: That's not our decision.

>> EVELYN AQUILA: will they accept our receiving date?

>> DOUGLAS KELLNER: That's up to Duchess to decide and for the courts to decide, but as far as I'm concerned, we don't have jurisdiction.

It's the wrong office.

>> EVELYN AQUILA: Return it to the county, then.

I'll imree to return it to the county.

>> DOUGLAS KELLNER: You want to be heard?

>> NEIL KELLEHER: No.

When you call the vote, I'll be heard.

>> DOUGLAS KELLNER: My motion is that we rule that this was the wrong place to file and therefore we have no jurisdiction over this petition.

So.

>> EVELYN AQUILA: Yes.

>> DOUGLAS KELLNER: Those in favor?

>> EVELYN AQUILA: Yes.

>> DOUGLAS KELLNER: Neil?

>> NEIL KELLEHER: Aye.

>> DOUGLAS KELLNER: The's unanimous.

>> NEIL KELLEHER: wouldn't that confirm counsel's recommendation that it was valid?

>> DOUGLAS KELLNER: Sort of.

See, we are not declaring it invalid.

We are saying we have no jurisdiction over it.

It was filed in the wrong office.

We are not going to certify that these are the people who were on the ballot.

That's an issue for Duchess to do.

>> EVELYN AQUILA: They should be returned to them today or tomorrow, as soon as possible, I guess, right?

>> DOUGLAS KELLNER: Well, I --

>> EVELYN AQUILA: Are we asking to return them.

>> NEIL KELLEHER: Todd, is this motion that the chairman has made, does this conclude this as well as an invalid vote?

Or is there something hanging out there now?

>> TODD VALENTINE: Well, normally once things are filed here, they don't leave.

It's a one-way street.

So we typically don't have a process after the filing period for forwarding things to another county Board of Elections.

>> DOUGLAS KELLNER: Right.

I agree that with Anna's analysis.

If we discover it before the deadline for postmarking it, we should send it.

If it's after the deadline, we have to honor the deadline.

The one thing that is absolute in the election law is the deadline.

So I don't think there's anything else for us to do at this point other than to say this petition was filed in the wrong office and we have no jurisdiction over this petition.

>> EVELYN AQUILA: Then the people will have to take it to court.

>>: Filing it in the wrong office is a fatal defect.

And during the four days that you can receive the petition, if it's filed in the wrong office, and it's otherwise proper and you forward it to the correct office, then why can you not consider a policy that if it were properly postmarked so it was timely, and you received it after the last date of file that you wouldn't use the same procedure and forward it to the correct county board and it's their determination.

>> EVELYN AQUILA: What to do with it?

>>: What to do with it because of the same problem you just had today.

Whatever decision the three of you make, it's binding on whatever happens here, but it's not properly here.

You know, if for some reason you said this was a valid petition, well, it's not valid that it's here.

We can't force them to certify these candidates on the ballot.

It's a decision appropriate at the local level.

If they decide it's invalid, it's invalid.

>> DOUGLAS KELLNER: If someone filed a petition for an office in Pennsylvania here, we wouldn't do anything with it other than maybe we would forward it to Pennsylvania and say we got this in the mail or, you know, we received this.

But I agree with Peter's analysis before that if we get into the business of saying that you can file in the State board and it's as good as file in the local boards, then people ren --

Then people aren't going to file in the correct board and that creates havoc with the election process.

>> EVELYN AQUILA: I thought we would send it back to the county when I voted in favor of your --

I believe it should go back to the proper county and let them deal with it.

>> DOUGLAS KELLNER: See, the county can deal with it any way they want under, consistent with the election law.

It's not ours.

>> EVELYN AQUILA: Yeah, send it back to them.

It has a date on them.

Send it back to them.

That's all.

Let them deal with it.

I hold for that.

I don't know why we can't return it.

It came to the wrong place.

A lot of people think they are supposed to file here today.

The last couple of years, a lot of changes have been made.

I would just put it in the mail.

Mail it to them.

With a note that the Commissioners vote that had this is not ours to deal with.

You deal with it any way you wish.

>> NEIL KELLEHER: I agree with that.

>> DOUGLAS KELLNER: That's all right with you?

>> NEIL KELLEHER: Todd, is that satisfactory to you?

Yes.

>> EVELYN AQUILA: It's fair.

It's important to be fair.

>> TODD VALENTINE: I know it is, and I think we can agree to that.

(Chuckles.)

>>: I think probably having a process where we just return these automatically or not return them --

Return is the wrong word.

We send them on to the county board where they should have been filed in the first place as a policy.

>> EVELYN AQUILA: Right, have them deal with everything.

>>: Regardless of whether it's going to be timely there or not and let the process, you know, spin out.

I mean, my view is, from the objector's standpoint, their time to object doesn't start until it's received anyway.

So once it's received, I guess the process at the county board can take place.

>> DOUGLAS KELLNER: The lesson I learned the hard line.
1106 has a deadline and that deadline is immutable.

>>: Other local boards send us stuff from time to time that were filed incorrectly to theirs and we do make rulings on those.

>> DOUGLAS KELLNER: That's fine.

We are all agreed.

That's what we will do.

But we are not ruling on this petition because it's not ours.

>>: But at least we're willing to send it back to the county that will rule on it.

>>: I interpret the ruling as meaning to forward it to the appropriate county Board of Elections.

>> EVELYN AQUILA: Appropriate, yes.

>> DOUGLAS KELLNER: So specifically, we are adopting an additional motion from Commissioner Aquila --

>> EVELYN AQUILA: To return them.

>> DOUGLAS KELLNER: To return this and any other petitions missfiled with this board to the appropriate board.

Is that agreeable, Neil?

>> NEIL KELLEHER: That's fine.

>> DOUGLAS KELLNER: Unanimously adopted by the Commissioners.

>> TODD VALENTINE: That will actually help for the last petition.

That had the same flaw.

>> DOUGLAS KELLNER: Now, tell us what the problem is with wise peering.

>> TODD VALENTINE: Some kind of judge in Saratoga.

Again, clearly it's not our petition.

We do not receive deg is 98ing petitions for judge at all.

And --

Designating petitions for judge at all.

>> DOUGLAS KELLNER: We are going to send this to the Saratoga county Board of Elections and let them deal with it in whatever way they deem appropriate?

That's the motion?

>> EVELYN AQUILA: Yes.

>> DOUGLAS KELLNER: Send this to the Saratoga county Board of Elections?
Those in favor say aye?

(All responded aye.

>> EVELYN AQUILA: Did we --

>> TODD VALENTINE: That had a different --

>> EVELYN AQUILA: That's all right, thank you, thank you, thank you.

>> DOUGLAS KELLNER: All right.

So now, that concludes the prima facie review of petitions and we will move on to the unit update portion of the agenda.

Todd, you're first on that.

>> EVELYN AQUILA: You're up again, Todd.

>> DOUGLAS KELLNER: This belongs to --

>> TODD VALENTINE: Obviously we have been doing the petition review work.
We continue with that.

As well as monitoring what other, every other project that seems to be going on in some way, which other units will update you on the program aspect of that.

The only thing that I have that I mentioned at the beginning of the meeting was the statewide ballot proposal for 2007.

And I previously handed out copies to the Commissioners.

Under --

I forget the statute.

4-something.

When constitutional amendments are passed after second passes of the legislature pursuant to an agreement with the Attorney General's office we develop a draft of the abstract and the question for the ballot.

The text is whatever the text is that's passed in the resolution by the legislature.

That is also, that has to be transmitted to the county Board of Elections no later than three months before the general election under which it's to appear, which means August 6.

In translating.

And this amendment amends the Adirondack, the description of the Adirondack park in the constitution to allow the Hamlet of Racket Lake land for a municipal water supply.

That's about as much as I know on that.

I'm sure.

>> EVELYN AQUILA: It's east of Poco Moon Shine Mountain.

An interesting name.

>> TODD VALENTINE: The text is lengthy.

The relevant portion is page 3.

>> EVELYN AQUILA: Yes, we read it.

>> TODD VALENTINE: Prior to that, the other --

>> DOUGLAS KELLNER: What is going to go on the ballot is the last page?

>> EVELYN AQUILA: Not for going the --

>> TODD VALENTINE: The abstract is a summary.

>> DOUGLAS KELLNER: No, no, this is what goes on the ballot.

>> EVELYN AQUILA: This here, okay.

>> TODD VALENTINE: The text and abstract will be available to voters at each voting place.

>> DOUGLAS KELLNER: The Attorney General drafted the text?

>> TODD VALENTINE: Yes.

This is what they have agreed to.

>> DOUGLAS KELLNER: I think it's long winded, and if I had my druthers I would take out a sentence or two out of this, but I presume the Attorney General thinks it's necessary to put all of this in there so there's a complete proposal to the voters.

>> EVELYN AQUILA: Legally all those words must have to be in there, yeah.

Drinking water wells.

>> DOUGLAS KELLNER: I have no problem.

Anybody have more discussion on this?

Those in favor of adopting the form of submission of proposal number 1 for this year's ballot say aye.

(All voted aye).

>> DOUGLAS KELLNER: Opposed?

It's adopted.

Todd, before you finish your report, I have some questions about the status of the Justice Department consent order right now.

>> TODD VALENTINE: Okay.

>> DOUGLAS KELLNER: And if you think that this is a discussion we need to do in executive session, you can say that after I ask the question.

>> TODD VALENTINE: All right.

If we can talk about it.

>> DOUGLAS KELLNER: what happens, under the current terms of the consent order, September 1, '07 is still the date of the consent order, correct?

>> TODD VALENTINE: Yes.

It's actually part of the plan that we were required to submit as part of that.

>> DOUGLAS KELLNER: well, have we submitted, have we done everything that we should be doing to protect Peter and Stanley from a contempt citation and the agency?

Under the terms of the consent order?

Do we need to be making a motion at this point to obtain a revision to the order on the grounds of impossibility?

Or do we need to be submitting a new plan?

Or are you comfortable that your communications with the Department of Justice in terms of the routine reporting process is sufficient to legally protect the agency in terms of its current posture?

>> EVELYN AQUILA: Or have they indicated to you anything in the telephone calls that they are expecting of us that we have not, you know, that we have not given proper explanation to them?

>> TODD VALENTINE: It's anticipated that we would amend the State plan.

That has been clear since much earlier in this year.

There is no expectation that has been completely eliminated of actually implementing the State plan as has been ordered by the Court that we put forth to the Court. That's clearly an understanding of both the Court because not only did we update the Justice Department but we did have a conference with the judge regarding this issue much earlier in the year, probably I think it was in February or January.

So the Court is well aware of the difficulties we face in meeting the plan that we had set forth pursuant to the Court order.

what we would anticipate doing now based upon the change in the soon to occur change in state legislation is clearly to inform the Court we have informed the Justice Department of the pending legislation so that they understand that based upon that, our plan will alter. In addition to the other alterations that we intend to add to that, which is primarily based upon the change in testing authority.

And what we have inform the Court and the just department consistently is, you know, we will adopt a new plan that we would submit to the Court at a point in time where we actually have the information ready to put that plan together.

And what we have been doing through the spring and through the summer is under the, you know, working with the Justice Department to keep them informed as our progress towards adopting those, the things that we need to do.

When we have documents that we can send them, we send them.

We send copies of legislation.

Time lines regarding the State buy database.

All of that --

Statewide database. All of that has been sent or communicated, earlier in the written part and then they wanted to go to the weekly verbal thing.

Then I think we are going to amend the Court order at a point in time. We envisioned this being a little bit further ahead and it would have occurred sooner than September 1.

But I don't see any expectation or intent of the just department, it has not indicated in any way that they would move for any kind of contempt order with regard to failing to meet the plan that we had submitted.

>> EVELYN AQUILA: How often do you speak to the Court, Todd?

>> TODD VALENTINE: The Court, not so often.

>> EVELYN AQUILA: When was the last time?

>> TODD VALENTINE: It would have had to have been in the spring.

>> EVELYN AQUILA: I understand.

>> TODD VALENTINE: It was shortly after we had begun to experience problems with our ITA.

That was December, January.

>> EVELYN AQUILA: Yes, right.

>> TODD VALENTINE: It would have been in the spring.

Shortly thereafter.

We continue to meet weekly with the torj's Attorney General's office and the Justice Department.

Not me, we meet by call. Liz is part of that as Pat was before her.

It's a status report running down the various issues that we are facing and giving them any information.

We meet with the Attorney General's office before hand so that they have, you know, to make sure that our information is all correct.

That they are up to date as to what is going on because they are not here every day,

of course.

>> EVELYN AQUILA: For the public's information, what is the judge's name?

>> TODD VALENTINE: Sharp, judge sharp, Gary sharp.

>> EVELYN AQUILA: You won't have to see him again until the fall?
Do you have a date when you must talk with him?

>> TODD VALENTINE: No.

>> EVELYN AQUILA: Does he send for you?

>> TODD VALENTINE: No, there's no date specified at this point as far as the underlying case is concerned.

There has been another motion to intervene that has been filed by another county, put Nam downty, to be specific.

Our response is due on August 20. We will give the same response as we gave to Nassau and sufficient folk county.

Both of those were denied intervention.

Presumably put Nam will be denied as well.

It's the exact same papers that Nassau and sufficient folk put in.

We expect the same result, but our position has been basically no position.

>> EVELYN AQUILA: Right.

>> TODD VALENTINE: There is a hearing scheduled for that.

I don't know when the date is.

I think it's in September sometime, but that's not on the main action, just on the intervention.

That may we on submission only as the prior two motions were.

We have no next appearance scheduled.

>> EVELYN AQUILA: Judge sharp, his office would alert us if they --

>> TODD VALENTINE: If the judge wanted to see us, he could send out an order 90 to come in.

We can seek a conference with the Court any time we feel it'sness and so does the Justice Department and the Attorney General's office, for that matter.

>> EVELYN AQUILA: Yes.

>> TODD VALENTINE: All I can say is, and Liz is on the phone, there doesn't seem to be a sense, I don't get a sense of Your Honorsy coming from our contact with the Justice Department.

He takes the information that we give him.

We answer whatever questions he has.

And says thanks.

We'll meet next week.

>> EVELYN AQUILA: Considering the California report, I think that the Justice Department must realize that there is a problem across the country concerning electronic voting.

>> TODD VALENTINE: No, they are aware of that.

They are aware of the legislation on the State level.

They do monitor press reports from the state because, so they are watching.

There's no question about that.

They are looking at whatever media reports they can see.

We didn't discuss, you know, the recent study from California nor the recent EAC report on the funding.

Those weren't issues of the day.

But.

>> EVELYN AQUILA: I am sure they are well aware of them and we are well aware of them.

>> TODD VALENTINE: I am sure that they are.

>> DOUGLAS KELLNER: Is there any other pending litigation that you want to report on?

>> TODD VALENTINE: We do have our state Hava case continues with sov folk county.

That continues.

Based upon the recent passage of legislation, we asked the Court to hold that case in abeyance until we know whether the governor signs it.

We presume he will, but it hasn't happened.

We asked the Court to hold that in abeyance.

Abeyance, that would pretty much eliminate any cause of action that either county had to demand us to act within a certain date to meet their deadline.

We haven't heard back from the Court.

We informed the Court, both we did as well as the Attorney General sent in a similar letter.

Nassau county, moving to intervene in that case, opposed our request, but they have opposed any requests that the Attorney General has made or we have asked.

So they seem to not like --

>> EVELYN AQUILA: They want to be very autonomous on this.

>> TODD VALENTINE: I guess, I don't know.

We are waiting to see how that gets resolved.

>> DOUGLAS KELLNER: Okay.

Anything else for Todd?

All right, we'll turn to Anna Svizzero on election operations.

>> ANNA SVIZZERO: We wrapped up our support for the election.

The winner, Mr. Amador was sworn in today.

We are awaiting the certified results from the county boards once all the absentees are accounted for and canvassed.

We'll have that certification for you at your next meeting.

We have completed acceptance test dry runs on three of the voting systems.

This is the second time that we've reviewed fender recommend --

vendor recommended procedures.

We do have issues with those so that the draft reports have been prepared by Tom Wood from the NYSDEC team and we are reviewing those here.

We are looking at the notes to make sure that the notes the fellows on the team took are reflected in the report.

We'll have the drafts ready for the board, ready to be provided to each respective vendor.

We thought it would be a good idea to meet with each vendor to review their own report rather than trade e-mails and such so that perhaps conversation could better reflect a what the team's recommendations or and what their suggestions for amendments are.

We continue to have discussions in house on the topic of escrow requirements.

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The staff prepared additional questions and sent them on to Microsoft for responses.

We have not received response to those.

As soon as we do, we will share those responses and set up another meeting for additional discussion.

The bimonthly vendor conference call was held and the focus for this past call was the requirements for and the certification, excuse me, the security benefits of digital signatures and whether or not vendors could comply with the requirements that are being interpreted from both the federal 2005 guidelines and our own regulations.

We have provided all of the committee members who are working on the contract review with the cleaned up documents that were provided by OGS.

It has been a busy couple of weeks for county boards with petition filing. Now they are doing their own petition hearings.

So I have heard from the group and they expect to have dates for me this week and perhaps we could meet again Monday or Tuesday of next week for a final review of that document and then have it to the board after that.

The vendor quarterly affidavits are up to date.

They are all posted on the website.

We also have a new application in from Sekoia voting systems. They have applied for certification of an optical scan system that a number of us know as the dominion system. They are renaming it for use in New York. That information is posted on the website.

We can make copies available if you want one.

The application itself is being reviewed by staff for complete next.

It would appear that a couple of the affidavits that were required to be filed are not in the filing, but it's a substantial notebook of documents.

We want to go through --

>> EVELYN AQUILA: Can I ask a question about the dominion system, has that received 205 certification from the EAC.

>> ANNA SVIZZERO: It's in the process of being certified by one of the certified labs, but it's not completed yet.

Our unit obviously supported --

Provided support through the petition process and has been fielding questions and assisting county boards with their own filing process and various petition issues as well.

We have been working in our unit with the creating of forms for standardizing how vendors approach us to interpret a regulation or clarify an issue so that we can have a more professional approach to how those questions come to us and how appropriate staff, counsel's office, et cetera, whoever is involved in resolving those issues reports back and those can be shared with all the vendors, obviously.

>> EVELYN AQUILA: A level playing field?

>> ANNA SVIZZERO: Yes, standardizing some reporting forms, too, so we can share information with the board and stakeholders in this process in a more consistent manner as well.

And I believe that's all I have.

We do have the contract extension for Nystec that perhaps you can consider in new business.

>> DOUGLAS KELLNER: We can just vote on that now unless --

>> EVELYN AQUILA: Anybody has any problem?

Nice computer ...

>> DOUGLAS KELLNER: All right. On the question of approving the NYSTEC contract extension all in favor say aye.

(All responded aye).

>> DOUGLAS KELLNER: Opposed?

(There was no response.

).

>> DOUGLAS KELLNER: Okay, Anna, the ITA contract, where do we stand now?

It's done?

>> ANNA SVIZZERO: ITA, the team's evaluation is at ITS and they are reviewing it to make sure that the procurement practices were adhered to and reporting that the team provided was on point. Once we hear back from them, then the recommendation can be --

>> DOUGLAS KELLNER: My understanding, there's no further action of the Commissioners required.

we delegated that authority to the executive directors.

>> ANNA SVIZZERO: Yes.

>> DOUGLAS KELLNER: My understanding is that the executive directors have submitted a document to OGS making their determination, exercising their authority to rule on the contract.

I don't know whether state law authorizes us to disclose that letter or not.

Do you know?

>> EVELYN AQUILA: Is that still confidential?

>> DOUGLAS KELLNER: The contents of that letter?

>> NEIL KELLEHER: I don't know.

>>: I spoke with OGS this morning about what we could discuss at the board meeting today.

They said that we could discuss the name of the winning, the recommended winner of the bid.

>> DOUGLAS KELLNER: Is this a public document?

>>: I don't know.

>> DOUGLAS KELLNER: I guess people have really good --

(Laughter.)

>> DOUGLAS KELLNER: People now can turn on their pirks he wills and pixels and try to read it.

Why don't I ask Peter and Stanley to just summarize it.

If you want me to show it to you, summarize it.

Or Allison, Peter, if you feel more comfortable having Allison, since she seems to know what the OGS rules are on this.

I'm talking about the July, on July 24, the co-executive directors formally determined that the agency had selected.

>> EVELYN AQUILA: One of these two.

>>: Labs of Denver, Colorado, it's fine to say it.

>>: Oh, my God!

(Laughter.)

>> DOUGLAS KELLNER: So the State board of elections has asked that OGS enter into the contract or award the contract to sys test.

>> ALLISON: That's correct.

>> DOUGLAS KELLNER: Okay.

Now, when are they going to do this?

I'm really concerned about the delays here.

It never, it was inconceivable to me in February that we would be into August without having a contract yet.

I know, Allison, you worked on independence day to do your piece to get that done because of the glitches that we had.

What can we do to expedite this so that this is done tomorrow?

>> PETER: I had a conversation with OGS about this yesterday myself.

And my understanding of the next step is for the office of the state comp troller to approve this.

If anything can be done, it's to urge that office to expedite the review of the application.

They do have 90 days, I believe, to review this.

>> ALLISON: They do, that's correct.

(Overlapping speakers).

>> DOUGLAS KELLNER: Judge sharp would be pleased.

>> PETER KOSINSKI: Obviously, we are urging them to expedite their review.

I don't know how much impact that will have on them, but we are hopeful that they certainly won't take the full 90.

Is there anything you can do?

What you can do if you wish is contact the controller's office and impress upon them like we're trying to do the importance of this and the timeliness of this and urge them to expedite their review.

And that would help.

>> EVELYN AQUILA: Peter, can we send a note from the three of us today asking them, considering we are under federal court, that we really would like them to move this along.

>> PETER KOSINSKI: You could. We feel good about this.

This review committee that we put together spend a lot of time on this.

Allison headed that up.

They spent two full weeks traveling around the country, reviewing these labs and looking at their subcontractors and spending enormous amount of money on this already.

It's part of the reason it has taken us as long as it has.

In light of the extensive review that they've done, we're hopeful that the other offices in the State that have to review it will help us by moving along their procedures to get this done so we can get this moving.

>> DOUGLAS KELLNER: So from the, the next step after the controller's approval --

>> PETER KOSINSKI: I believe the Attorney General is the final.

>> TODD VALENTINE: No, Attorney General comes first.

The Attorney General's office is a form.

>> PETER KOSINSKI: Once that's done, we're done.

>> DOUGLAS KELLNER: So --

>>: If you look at the time line from the saber contract last year, you approved that on August 15. The controller did expedite it and they signed it on October 2.

>> DOUGLAS KELLNER: If there is nothing I can do, there's nothing we can do.

>> EVELYN AQUILA: He said we can send a letter.

>> DOUGLAS KELLNER: We can send a letter, yes.

>> EVELYN AQUILA: Maybe Allison can put a brief letter to us.

>> DOUGLAS KELLNER: To controller Anapoli and alert him to this.

>>: Osm GS is also urging the controller's office to move this as quickly as

possible.

>> ALLISON: That's true.

>> EVELYN AQUILA: We need to send it to the controller's office?
Whoever you think.

>> DOUGLAS KELLNER: Now, Anna, the next thing I wanted to ask you about is on digital signatures.

Where do we actually stand are in terms of what the vendors reported on their ability to comply with the New York regulations on digital signatures within the voting apparatus?

>> ANNA SVIZZERO: There hasn't been any resolution.

The vendors seem to be, from the conversation, reticent to some degree.

They felt that the digital signature would be longer than the record to which it pertained.

Issues such as those were heard on the conference call.

Nystec was going to review the issue and perhaps bring us back something that was, I don't want to say more forceful, but more definitive and elaborate on our proposed position on digital signatures.

But it was the first of --

It was the opening conversation on that topic.

It was not by any means meant to resolve it.

Nor was there any conversation on the phone that anyone could interpret as a resolution.

>> DOUGLAS KELLNER: All right.

I guess my question is, is the current submission of the vendors in compliance with our interpretation of the digital signature rule?

Or is that a question or do we know whether or not the systems are in compliance and have to be modified?

Or is that still unclear as to whether they are in compliance?

>> ANNA SVIZZERO: I don't believe that we got that far with the security review at cyber, but cyber's sense at the time was that vendors could not comply with this requirement.

Again, because the process was interrupted there, we never definitively got that from them in any kind of report, et cetera.

So it would be something that would fall to the new ITA to resolve down down my understanding is that dominion claims that their product does comply with that requirement.

>> ANNA SVIZZERO: I have heard the same thing.

>> DOUGLAS KELLNER: That's the only one that I'm aware of that has affirmatively claimed that they can comply.

If you were aware of any others that said that they were in compliance, I would be interested in knowing that.

>> ANNA SVIZZERO: No one admitted as much on the phone.

>> DOUGLAS KELLNER: Okay.

And then with the OGS contract, I mean with the voting machine ago situation contract especially since we are now talking about putting it out for rebidding, I'm concerned that we start to give this a little bit more urgency than we have.

That we really need to wrap this up this month.

>> ANNA SVIZZERO: The Commissioners that I spoke to read the documents that I sent.

They also reviewed the position paper from OGS about not being permitted by statute to apply additional penalties to the vendor other than what is available through the bond.

They have read those.

They just haven't had the hour or two in this process to get on the phone so we could get consensus on those three remaining issues.

We are hoping Monday or Tuesday.

>> DOUGLAS KELLNER: We have been doing this at a more leash are you areally peace -- Leisurely peace than is acceptable.

Especially since we added the decision to rebid it, we are adding six months to that end of the project.

We need to finish this phase and get the rebidding process started.

>> ANNA SVIZZERO: I can --

OGS did not think from the last time we discussed it at the board meeting that this was a board vote that it would be rebid.

My understanding was that it was, but I haven't been able to document that at all.

I thought that was the feeling of the board because they could begin that process at least their preparatory inhouse work.

Not obvious I put out a document that you haven't approved.

>> DOUGLAS KELLNER: Are we all agreed on that?

>> PETER: I don't know.

I think the issue with the rebid is the time.

The timing of it.

It will add time to the whole process.

It's important to have an understanding of how that's going to I am panning our pro consumer. Do you --

Impact our procurement.

Do you know how much it will add, Anna?

>> ANNA SVIZZERO: They said two months.

Not from this point forward, but it will take an additional two months to rebid this.

>> DOUGLAS KELLNER: I think it's a lot more than two months.

>> ANNA SVIZZERO: That's what she shared with me.

I can only share with her.

>> EVELYN AQUILA: Tell her to put it in writing.

>> ANNA SVIZZERO: If you want, we can --

>> DOUGLAS KELLNER: Peter, I think we should start that process.

>> PETER KOSINSKI: I agree if we are going to.

I agree that getting this contract locked down is important and it's taken an extraordinarily long time to get consensus on the terms of the contract.

I mean, I'm not sure exactly why, but I guess maybe part of it is the, you know, the number of people involved in the process.

But I agree if we are going to rebid, we definitely to move more quickly.

It's going to add time.

>> DOUGLAS KELLNER: I do believe we should rebid, for several reasons.

The most significant reason is out of fairness to the vendors that this contract is really not the same as what was originally proposed.

And the vendors understanding of the regulatory requirements are so different today than they were a year ago or when they first made their initial submissions.

And then the second thing is that I think we, the alternative would be to

renegotiate with the vendors on an individual basis --

Vendors on an individual basis and I think that's an undesirable process, trying to go one-on-one with each vendor.

>> ANNA SVIZZERO: I imagine that takes longer.

It took longer in the initial contract phase.

>> EVELYN AQUILA: We still have the negotiation process.

>> PETER KOSINSKI: Don't you have a two layer process?

You do rebidding and then you also negotiate.

>> EVELYN AQUILA: You're not going to avoid that.

>> PETER KOSINSKI: Either way there's a significant amount of time involved here. I agree with that.

Part of the decision has to be, what is that time that's going to be required?

And how does that fit into our time line?

>> DOUGLAS KELLNER: Peter, can I ask that we try to have agreement on the question of whether we are going to rebid for the next meeting?

>> PETER KOSINSKI: Part of that was that OGS was looking at whether state law required us to rebid.

We are waiting for a recommendation from them. If we change the terms to such a degree, there is even some mandate that we rebid.

We may not have an option if the interpreters are changed to such a degree --

If the terms are changed to such a degree.

>> ANNA SVIZZERO: We can get a time line from the office to --

>> DOUGLAS KELLNER: I'm willing to rebid, vote to rebid today.

>> PETER KOSINSKI: My own wishes would be that before the board do that, that they get a time line and understand the impact of rebidding, renegotiating, so you understand.

And then vote and whatever you decide is fine.

>> EVELYN AQUILA: I agree.

>> DOUGLAS KELLNER: I have nothing else on election operations.

>> EVELYN AQUILA: Could I ask this one question?

Is it all right with you, Mr. Chairman?

Have we been given any information from cyber that any test that they might have finished, any work --

I mean, we paid them a lot of money.

Have they finished anything?

Was there any machine, any --

Something that we won't have to test again so that we can move this along?

>> ANNA SVIZZERO: They didn't finish any one system beginning to end, but there are tests they excreted and they provided us with those reports.

One of the new things that the ITA has to do is look at the reports and see if there's value to them or if they recommend that the new test be redone.

>> DOUGLAS KELLNER: Could I say to be accurate, we haven't paid cyber either, right?

>> EVELYN AQUILA: We paid them some money.

>> ANNA SVIZZERO: Not all, some.

>> EVELYN AQUILA: We paid them some, though?

>> ANNA SVIZZERO: Yes.

>> EVELYN AQUILA: Have they given us enough, have they done enough for what we paid them?

Should we continue paying, giving them the rest of this money?

Or did they just do enough for what we already paid them?

It's tax payers' money.

>> PETER KOSINSKI: We are very sensitive to that and we are evaluating what they gave us and we will be making a recommendation to you as to what we think is fair payment to them.

>> EVELYN AQUILA: See, we haven't talked about it yet Pete once we get an understanding of the usefulness of what they have given us.

We haven't been able to assess all of that.

>> EVELYN AQUILA: Thank you, Peter.

>> **DOUGLAS KELLNER: We will turn to public information.**

Lee Daghljan?

>> LEE DAGHLIAN: Thank you.

I'll be brief. We are continuing with several projects in the unit, either in the planning stages or actually in execution.

The major one is our HAVA funds project where we are dealing on a daily basis with county Board of Elections.

We have gotten more aggressive lately with that situation, making some face-to-face visits at county boards to get completion, at least of the accessibility portion of the program.

I think that's coming together pretty well.

Secondly, the State fair process is ongoing.

Everything is just about done.

We think we're ready for that.

We, Anna didn't mention it, but we have a whole bunch of new Reg forms delivered this week. I think it's 4 million, Anna, something like that.

>> ANNA SVIZZERO: Yeah.

>> LEE DAGHLIAN: At our office.

It's smaller, eight and a half by 11 size.

Still outstanding are some of the languages they have top print in and the blue dot forms to track NVRA registrations.

But those will be here soon.

While you are asking OGS to hurry up with the ITA, maybe you can put in a word for us

(Chuckles.) hee Lee it's not critical, but we have an RFP that has been completed for poll worker training. We selected the vendor in May.

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Contract was signed by the vendor and by this board in early June. We don't have it

back yet.

I understand that controller's office got it on the 17th of July, after the AG reviewed it.

As of today it hasn't come back yet, as soon as we know.

Again --

As far as we know.

Again it's not critical because we haven't certified any voting machines, but we would like to get the program begun and started.

If you're talking to them, ask them about us.

(Chuckles.)

>> LEE DAGHLIAN: That's all I have unless you have something else, Bob.

>> BOB BREHM: No.

>> LEE DAGHLIAN: Oh, one other thing.

Commissioner, you didn't mention the minutes need to be approved.

>> DOUGLAS KELLNER: We can do that now, I was going to ...

Is there any changes to the minutes of July 19?

Those in favor of adopting the minute as presented, say aye (all responded aye).

>> DOUGLAS KELLNER: Opposed?

(There was no response.

).

>> DOUGLAS KELLNER: Minutes are done.

Thank you.

Turning to campaign finance Commissioner Ms. Hogan?

>> ELIZABETH HOGAN: This includes the mailing out of letters for the June 15 periodic filing. We mailed in excess of 1200 letters.

We would anticipate the order to show cause list being prepared by August 15. Is that right, bill?

August 15.

Bill and I have met again with OGS regarding developing an RFP for process serving.

We have narrowed it down considerably to what we feel the requirements are going to be and we are, where each side, OGS and ourselves are going to prepare documents to answer questions about how specifically the language should be drafted.

We will meet again probably later this month to put our heads together on that.

We are continuing an assessment of the HAVA complaint procedure process.

Internally we have met with NYSTEC several times.

They developed some documents for us regarding the process, internal process for dealing with HAVA complaints.

We found that it was more helpful for us internally to assess our needs than sit down with NYSTEC and do that in the same meeting.

So internally, bill and I are sitting down.

We have several times discussed and we have another meeting scheduled tomorrow for a couple of hours to discuss our needs as to how the process within the agency will work for processing those complaints.

Then we'll meet again with NYSTEC.

We have a memo, final draft of a memo ready to go on the local filers project where we ask the counties to provide us information about candidates who are either exempt or in their estimation their offices don't traditionally spend a certain amount of money or they do no files.

We are looking for the county's help on that.

Those should go tomorrow, I believe.

Regarding the six positions that the board approved at the last meeting for our unit, we have been working with Pat Tracy to develop the documents required to go to civil service and I think she's targeted tomorrow, actually, for the packet to go this.

It's our understanding the civil service board meets in the middle of September to consider the titles and I think --

I think those are the major projects we are working on.

>> DOUGLAS KELLNER: I didn't hear you mention the status of the report on corporations that have exceeded the campaign finance limits.

And I thought there was a promise that we would have that for this board meeting.

>> ELIZABETH HOGAN: The list?

>> DOUGLAS KELLNER: Both the list and the new proposal.

>> ELIZABETH HOGAN: I am, I am waiting for the list.

I will follow up on that today.

We have certainly been mired and our staff has been totally busy with the July error I can and the telephones.

But --

Periodic and the telephones.

I will follow up today on that list.

You're talking about regarding the change in the letter?

Is that what you are talking about?

>> DOUGLAS KELLNER: Right is.

>> ELIZABETH HOGAN: It's my understanding, the tentative three-way agreement that was reached by the legislature and the governor did include provisions for changes to procedure on how to address corporate contributors.

I'm trying to get a handle on what that language is.

I thought it would work more advantageously for us to understand what that agreement entailed in terms of proceeding against over contributors before we developed a new policy.

So I will --

>> DOUGLAS KELLNER: Let me say that I will, I hope that we have the 2005 list by the September meeting.

And we really should have the 2006 list by the September meeting and I know that it's unrealistic for me to expect it given the staff that you have now that you will be able to get that list together.

>>: I can give you the exact update.

Where we are in the process, the staffers who are responsible for preparing the list for 2005 final report to Liz have been inundated.

We have been averaging a thousand calls or more during this period. The people, what they need to do, we have completed all the correspondence.

Essentially what, this phase is that they need then to prepare their final assessment and then also, which is the more critical part, is to do an assessment based upon prior years to see which ones of these are repeat offenders, if any.

They prepare the report for enforcement counsel.

That's the basis of the enforcement counsel's recommendation is that report.

We don't have that report yet. We met yesterday, Liz, I and Patty who heads up the campaign finance unit.

We talk about it essentially every day.

>> DOUGLAS KELLNER: I know you sit and talk.

I want the list.

>>: It's a practicality as well.

As far as the 2006 process is concerned, I can tell you that IT and our staff have been working regularly on a weekly basis several times a week to resolve the search mechanism so that we can be satisfied that the list, especially in light of the new local filing component added to it, will be correct.

So we've tasked that.

They are working on it.

We still fully anticipate this process will be completed for 2006 this year.

That's our goal. So we, you know, there is --

There's no delay that is just because we are not, you know, we don't want to do it or whatever.

Based upon our staffing levels and what we have to do administratively on a daily basis, we are doing the best we can.

>> DOUGLAS KELLNER: We now have the budget to increase the staff.

And I presume that we could bring in temporary staff as well.

And I don't know how viable that is because some of this has a training component to it.

So you don't want to just bring in part-time people on a short-term basis, but we've got to get this moving.

I mean, I'm not going to drop this issue and it's not enough to keep telling me Commissioner, we'll have it at the next meeting and then not have it at the next meeting.

And you know, I'm trying to gently call you on that problem.

That you have to pay attention to getting that done.

And I also see we have no enforcement cases on today's agenda, right?

>> WOMAN: Not today.

>> DOUGLAS KELLNER: I realize that the unit is swamped, but I'm urging that you focus on attending to what you need to get the work done and to make that known to the Commissioners.

Obviously at the first level you should be making it known to the executive directors and I'm not aware of any requests to the executive directors that they have denied you with respect to the staffing.

I'm not aware of anything from us.

So we really need for you to focus on what you need in order to get your job done and to clearly articulate what that is.

And if it can't be done, then we have to deal with it.

>> EVELYN AQUILA: I think Liz has been here two months.

Right, Liz, two months?

>> ELIZABETH HOGAN: Yes.

>> EVELYN AQUILA: I think, I'm not saying in defense, you're absolutely right, we need to get this work done.

I know from my discussions with her that they have been talking about how they want to put that whole, you know, division so they can get it done right the first time and not have to go back four or five times, you know.

I do think we have to know.

I think we need complaints taken care of, but I think maybe we could just give them a little bit of a breathing space because of what's going on. I do think maybe by September as we start to see everything.

>> NEIL KELLEHER: If I can address --

>>: If I can address one final thing, I think an appreciation of the scope might be helpful.

We have six staffers who are front line phone people, for instance.

I fully anticipate based upon January, now with July coming up, we sent out over 800 letters in January and sued over 300 people.

We sent over 1200 letters now.

If it works out to be the same and who knows if we can even blow the curve, we could end up suing 500 people.

when we sue hundreds of people, the correlation to the intake not only of registrations and filings and phone calls flood the system.

On a daily basis they literally never get off the phone.

So we, the process works, but every action we take has a necessary reaction. The amount of work that creates is huge.

So, you know, this July filing period is a monster.

>> DOUGLAS KELLNER: I hear you, but you and Liz need to articulate exactly what staff you need to get that job done and until you do, the buck is in your --

>> GEORGE STANTON: We fully anticipated with the allocation of the budget and with the 21 jobs we would be able to move forward not only in the discussions we had on what we considered the intake and processing of campaign finance but also the audit and control and ultimate enforcement.

We only have the six positions.

Even with civil service production, we will be lucky if those people come on board in September or October.

That's the happy guesstimate.

with the other positions, again whatever the action the board takes, that's a separate issue.

But clearly there could be creation of a number of positions.

But the necessary delay, we will be lucky if you get those people in January.

The money is there, but you still have to create them.

>> PETER: We would be happy to entertain a proposal.

If you need more positions.

>> ELIZABETH HOGAN: We will do internal assessments and get back to you.

>> PETER KOSINSKI: As the Commissioner said, we have money and we should use it.

>> ELIZABETH HOGAN: That won't resolve the issue that is on the table today.

with the --

We can project out.

>> PETER KOSINSKI: I agree this is an ongoing problem.

The unit has the same problem every single year.

I also agree that the state legislature gave us one and a half million dollars to

help address this problem.

I fully think we should use that money to do that.

>> ELIZABETH HOGAN: I don't disagree.

>> PETER KOSINSKI: Six poings are not enough to do that, but there's money to do more.

>> ELIZABETH HOGAN: I don't disagree with you.

In terms of what is on the table and do now, that is not going to address it.

We will make every effort, Commissioner, to get this resolved and get you the list.

Actually, put together perhaps a proposal based on our best assessment so as to what we need.

>> DOUGLAS KELLNER: Please.

Now, the next issue I wanted to raise with you is based on what you know of the three-way agreement on the campaign finance bill, what do we anticipate is going to, that the bill is going to do with respect to the local filing issue?

Does it have the language in it that will eliminate local filing?

>> ELIZABETH HOGAN: I haven't seen the language.

>> DOUGLAS KELLNER: I haven't seen it either.

>> EVELYN AQUILA: I don't know what it says either.

>> ELIZABETH HOGAN: I have heard talk --

>> DOUGLAS KELLNER: It's going to eliminate local filing?

>> ELIZABETH HOGAN: I have heard talk about it, but I have not seen the language.

>> DOUGLAS KELLNER: I ask that we all monitor that to make sure that the language actually gets in there the way we want it.

>> GEORGE STANTON: You have to be careful what you wish for.

This memo we're sending out to the counties now to identify local candidates, in the initial assessment when they passed the bill first, we anticipated nearly 10,000 local filers in an odd numbered year.

As you know, we traditionally have 1500 to 2,000 we are upwards of six to 7,000 now.

Add three or 4,000 more filers, you have to --

>> DOUGLAS KELLNER: I understand that, but that's eliminating this function completely from the counties.

So that I don't think there's any question that we can do this more efficiently and effectively than the counties can.

And once that gets done, there will be savings in the county.

>> EVELYN AQUILA: Absolutely.

>> DOUGLAS KELLNER: New York City, for example, has one attorney full-time and six staff people part-time just handling that function.

So if that's eliminated, that's freeing up those people for other duties in that agency.

That's just one example.

You know, statewide, I guess even more significant is that in most counties they just don't do anything.

They had the legal responsibility, but it's meaningless because they don't --

Evidence they have don't have a budget.

>> DOUGLAS KELLNER: They don't have the wherewithal to do it.

I thank Peter for his comments.

I look forward to the next, to our September meeting so that we can continue to make progress on this.

George Stanton for ITU.

>> GEORGE STANTON: I'll try to be brief.

The NYS voter database is up and running.

We have about 54 counties on it.

Working from it on a daily basis.

In addition, additionally we have data from at least the initial cut of data from all of the counties, including New York City, Nassau and --

>> DOUGLAS KELLNER: George, who are the eight counties not on the system?

>> GEORGE STANTON: Five counties of New York City, Nassau, Westchester, Westchester will be coming on next week and Delaware county, in the process of converting to MTS.

They will be coming on.

>> DOUGLAS KELLNER: Is it a digression if I ask you about New York City now or should we talk about that after you finish?

>> GEORGE STANTON: Doesn't matter to me.

I don't know if it's a digression.

I know they're having a board meeting today.

I had a conference call with Steve furnishing son, the IT director yepd and their vendor.

Talked about the technical issues.

They have technical concerns.

We were shooting for next week for them to go live, but their preference is to go to their cutoff date for printing poll books for the primary which I believe is August 25.

Just to make the cut over go smoother technically.

We realize there are other issues going on.

>> DOUGLAS KELLNER: Is August 25 the real date?

To use the Colorado oak weal, are they jerking us off where they first said June and it became August 2 and now they are telling us three weeks later?

>> GEORGE STANTON: That he oh always been my concern.

From Steve Ferguson's point of view, August 25 is a preferable date for them.

I don't think they --

In fact, they confirmed they don't want to go beyond that.

That puts it in the next poll book printing for the general election in jeopardy.

They would like to get it done as soon after the 25th as they can.

>> DOUGLAS KELLNER: You think that's a real date?

Dporj George understand, they have to get per --

>> GEORGE STANTON: Understand they have to get permission from the Commissioners to do it.

>> DOUGLAS KELLNER: I guess this is the reason I'm trying to get this dialogue going.

If there are legitimate technical reasons why this shouldn't be done, let's put the technical reasons on the table and address the solution for the technical reasons.

If it's that the Commissioners aren't authorizing it, then I'm concerned on whether we need to deal with the legal issues and jurisdictional issues to ratchet up the appropriate roles of the city Commissioners and the state commissioners.

In other words, the city doesn't have a choice not to go on this system. They are legally required to be participating in this system and we are not looking to force them in to the system to create a technological problem, but if the issues are not technological, it's not an option for them not to be on our system.

>> GEORGE STANTON: Steve fold me yesterday and we kind of nailed them down on our call and Bob was there, that as far as they know, they are still doing testing on their local system with our system this week.

Unless they uncover something that they aren't expecting, they will be ready technically to go on by the 25th.

>> BOB BREHM: There are some time issues for them because they are doing their testing this week and then they have other things that, you know, because of the size of the scroll, you know, it --

Size of the volume it takes them longer to do things because of the number of voters.

We wanted to make sure we went day-by-day between now and the 25th.

They had stated real reasons why, you know, we might be able to shave off three or four days before the 25th, but it really made a, you're making them rely on something and then they really have to use their old system to print the poll book because it's a matter of days.

It wasn't worth shaving a couple of days the way they described it from a technical, you know, what do you need to do first?

Frankly even the steering committee and the safer consultant answer and Gartner looking at them, we are uncomfortable with them moving forward without them getting the UAT testing this week and I know that they have been monitoring the activity in the UAT to see that there is activity and make sure that there is monitoring that it was fully tested.

It would be a disaster to go live even from our perspective if it wasn't fully tested from end-to-end.

>> EVELYN AQUILA: What percentage of the system is New York City, will they be?

>> GEORGE STANTON: Voter wise?

Somewhere between 30 and 40 percent.

>> EVELYN AQUILA: That's a big amount.

They have to come on.

>> DOUGLAS KELLNER: It is not in my view a city Commissioners decision.

If it's a technical issue, the law requires that they be on our system today.

And technically, the law requires that they print their poll book from our system.

So it's a technical issue that, as I say, I'm not trying to push.

(Overlapping speakers) George gornl the poll book, when we were on the phone yesterday, at about 230, in the UAT testing, we have to make sure that at the get the audit test done.

They had some questions about the audit portion, which is necessary to print the poll book.

So it's hard for us, I think they started testing of the UAT sometime Tuesday morning around 11.

So it's hard for us to feel comfortable to know that they fully tested everything they need to test and they know that everything is working properly.

Hopefully by the end of Friday, early Monday, we will be able to answer that question.

But we don't know that right now (Bob).

>> BOB BREHM: They have not uncovered anything substantial that we know of to this point, but it is not done yet.

>> PETER KOSINSKI: The concern as I heard it is that they are getting so close to the cutoff date for the poll book printing, when I was here and they were talking, they anticipate issues once they go live and they want to be sure that they have sufficient time between the time they go live and the time they print to fix those problems.

Every day we lose in a sense between now and August 25 makes that less likely.

It almost forces us into a situation where we have to let them go past that August 25 date so they at least get the poll books printed this year without some huge problem.

>> EVELYN AQUILA: What is the last day for the poll book to be printed?

>> PETER KOSINSKI: August 25 is the date they're giving us.

It's August 2 and we are three weeks away and if they are not getting the testing done until next week and then they go live ... my feeling was, I would hate to put them in a position where their poll book can't be printed this fall.

As much as we want to go live.

Unfortunately they created their own problem here.

Instead of going live like they promtion the us back in June.

They delayed now to a point where you can't push them into it.

The risk is too high to jeopardize this fall's election, which nobody wants to do.

>> EVELYN AQUILA: Peter, that poll book will be used then in November?

>> PETER KOSINSKI: No, they won't.

They have to print again.

The secondary issue is, if they don't use it in August, are they going to use it for November?

That's going to be printed --

I'm not sure of the date for that one.

Sometime in October.

Is there enough time there?

The a shorn we would like, if you are not going to do it for the 25th, you have to be prepared to do it for November.

>>: The conversation yesterday on poll books, because they are not going to be live for that printing, they still will do a test poll book printing for this version so that, you know, they will be using the old system to print the poll book for the primary, but they will be testing the new system to print a few Delta poll books for various areas to make sure, do they match, do we have any problems?

So we don't get into October and now we are using it for the first time and we haven't done a test.

They are proposing that we, you know, not totally ignore the responsibility from a technical side and actually, you know, test a few of these in addition to just...

>> EVELYN AQUILA: What is on the agenda for the Commissioners today that affects this?

>>: That is a separate issue really.

That's not a technical problem.

Different issue.

>> EVELYN AQUILA: Oh, separate issue, okay.

>> DOUGLAS KELLNER: George, I would ask that --

I can see that you are on top of this.

And that the committee is on top of this.

But that if they are not prepared to go live for the first week of September, then there should be documented technical reasons for that.

And I would ask you to, you know, put in the resources in your unit to do that.

If they are not going to go live in early September.

And the reason for that is if there are technical reasons for them not going live in early September, then we will need to enforce the state law and decide what our options are in terms of how to get compliance.

If the issue is technical, then you need to be making sure that those technical issues are being addressed in an appropriate manner and I have no criticism of how you have been doing it so far.

But I think that I am concerned that this is going on too long and I hear rumors of other issues that are not technical issues that we have an obligation to address if in fact it's nontechnical reasons that New York City has decided that they don't want to be on this database.

I'm sorry, I interest are you positived your report.

I'm not sorry.

It was an interesting discussion.

>> GEORGE STANTON: That was probably the most important part of it.

I can't remember where I left off, though.

(Chuckles.)

>> EVELYN AQUILA: Right after New York City.

>> GEORGE STANTON: Obviously we have been doing the training for county users.

New York City was trained last week.

I think Steve is thinking he may want some of his soup are users to have additional training before they go live because there is going to be a gap.

Westchester training was done yesterday.

Bear data was coming in and they should be going live sometime next week.

Nassau county is scheduled for training August 13, I believe.

And that pretty much concludes the training.

>> EVELYN AQUILA: Is Nassau going to go live on time?

>> GEORGE STANTON: Remains to be seen.

We are working with them on connectivity issues, on the VPN.

They wanted to move the box inside the firewall.

They have their own ideas how to do things.

We have to try to work with them on that.

I think we'll get that worked out.

I haven't heard anything.

>> EVELYN AQUILA: Contrary?

>> GEORGE STANTON: --

Anything saying they wouldn't.

They are scheduled to train on the 13th.

It is not confirmed yet.

What we are doing, training them one week, put the data on the database and they go live the following week.

Then as I said, Delaware county is in the process of converts to NTS.

That will be inconsequential.

They will come on and we won't hardly notice it.

>> EVELYN AQUILA: Nassau and New York City are huge.

George that's about it.

>> GEORGE STANTON: That's about it.

>> DOUGLAS KELLNER: Okay, thanks.

I don't believe there is any old business on the agenda.

So we'll turn to new business.

The first item is the procedures for ballot marking devices.

Now, I didn't actually get a draft of the procedures other than by e-mail.

>> EVELYN AQUILA: Neither did I.

>> DOUGLAS KELLNER: Peter and Stanley, is it your intent to present these this afternoon?

>> PETER KOSINSKI: I read about it here. I don't know if Anna has a clean draft.

>> DOUGLAS KELLNER: All right.

You have one there.

>> EVELYN AQUILA: I can't believe this.

I read this.

>> PETER KOSINSKI: Anna, maybe you want to speak to this.

I think this is a draft you put together.

I think you worked off last year's.

>> ANNA SVIZZERO: I did take the liberty of working off of last year's to prepare something for this year.

I sent that around by e-mail to the staff yepd and we metaphor conversation and the document reflects the conversation that we had on those couple of topics.

It is, so you'll see the changes in red.

The proposals.

>> DOUGLAS KELLNER: In 3A, did the old procedures say who are disabled?

That is not tracked in red here.i.

>> PETER KOSINSKI: I don't know.

Anna, you have to speak to that.

Is that a fair assumption, if it's not tracked here, it's in the old one?

>>: It's in the old one.

>> PETER KOSINSKI: It is?

>>: The last sentence is who are disabled to cast their ballot at the designated site.

>> DOUGLAS KELLNER: That's no change from last year.

>>: Do you have the old one?

Bob has last year's?

>> EVELYN AQUILA: It says deleted, notwithstanding any contrary provision in the election law.

>> BOB BREHM: This is what we have from last year.

>> DOUGLAS KELLNER: So this proposal, you are deleting the provision in, that specifically said that we would encourage persons who are not disabled to use the accessible voting devices as well as disabled persons?

>> EVELYN AQUILA: To prove I was looking at this before, I did write a comment in here.

And my concern, my concern about that is that maybe this goes back to my years on the school board, is that by just allowing disabled people to vote we are saying to everyone who comes in and uses one of them publicly to their neighbors and friends or anyone they know, oh that's a disabled person.

Not everyone wants people to know about their disability.

I think we might get the groups that represent disabled people to say something.

I think we have to add, and I wrote my own words --

I'm not a lawyer, please forgive me.

I just said that any registered voter who wishes to use this voting machine may do so, period.

So that there is a few other people in there, not just all disabled people.

I think there is something by sticking them out and saying this machine is only for disabled people, somehow is something that some disabled people would feel would make them stay away or make them not use it because of that.

Look at the head of the Supreme Court, you know.

He didn't want everybody to know he had epilepsy and he does and he must have known.

I myself had the same problem and I know what happens, what they tell you the very first time it happens.

Not everyone wants to wear a sign saying: I'm sick, I have a problem, I'm disabled.

And I would just add that simple sentence.

That would just say any, you know, registered voter who wishes to use this voting machine may do so.

I don't know if that's the exact legal way to put it in, or some of the lawyers can figure that out.

I don't want it just to be only the disabled people.

I don't think that's fair.

Or right to them.

Right for disabled people.

I know I think twice, you know, if I was disabled, about --

You don't need everybody knows everything about you.

This way you can say no, I was just using it.

I wanted to try one of those machines.

I don't know if anybody else feels that way, but I do.

>> DOUGLAS KELLNER: I also agree that it should be clear if we are, that none of these changes are designed to eliminate the right of everybody to vote on the ballot marking device.

And if the intention is to restrict the ballot marking device to disabled voters only then I'm not going to support the procedures.

But it's not 100 percent clear to me that the procedures are designed to do that.

>>: Let me tell what you the discussion centered airn.

Last year we had the discussion about the anybody voting on it.

That was based on the federal court order.

The order provided that these machines be available to anyone who comes in.

So --

>> EVELYN AQUILA: Don't you think that that.

(Overlapping speakers).

>> DOUGLAS KELLNER: I don't agree.

>> EVELYN AQUILA: I think they did it for the credit, the law.

>> DOUGLAS KELLNER: The statute, 7202, does not limit the use of the accessibility features to persons who are disabled.

There is nothing in the new law, assembly bill that was passed by the legislature last week, that suggests that the ballot marking devices should be limited for disabled voters only.

And we are imposing a new restriction if we are going to say that they should be used for disabled voters only.

That is nowhere in the law.

>> PETER KOSINSKI: I think what we are looking at, at least when I was looking at it, was that the law right now requires that you vote in your polling center.

>> DOUGLAS KELLNER: No, it doesn't.

It isn't the law, Peter.

>> PETER KOSINSKI: I think it is.

If I want to vote, I have to vote in the polling center.

>> DOUGLAS KELLNER: We have laws for special voters and the legislature specifically adopted statutory language for these ballot marking devices.

>> PETER KOSINSKI: Correct.

>> DOUGLAS KELLNER: That provided for ballot marking devices in each county.

And --

>> PETER KOSINSKI: Correct.

>> DOUGLAS KELLNER: The legislature did not limit the use of these ballot marking devices to any particular category of voter.

I don't see how you can justify without any statutory authorization creating limitations on who can use these devices.

>> PETER KOSINSKI: But it does, to be fair, it does specifically talk in the legislation about providing ballot marking devices which are specifically equipped for people with disabilities.

It's pretty clear, I think, that the intent here was to provide these ballot marking devices to assist our disabled voters to be able to vote like anybody else.

I don't think it was --

>> DOUGLAS KELLNER: It said the ballot marking devices had to have these capabilities.

It does not say that it's only for those voters.

>> EVELYN AQUILA: No.

>> PETER KOSINSKI: You know, it may not go on and say that very specifically, but I think it's clear that the whole idea behind this legislation was to make sure that our disabled voters had an opportunity to vote in privacy --

>> EVELYN AQUILA: I agree.

>> PETER KOSINSKI: --

Like people who are not disabled.

These ballot marking devices were to be provided in each county for that purpose.

Last year we did have the federal court order which did allow for anybody to vote on these.

But this statute does not go into that arena.

>> DOUGLAS KELLNER: You're right.

>> EVELYN AQUILA: They took the privacy away from the disabled person by doing that.

>> DOUGLAS KELLNER: The statute didn't --

>> EVELYN AQUILA: I'm sorry.

>> DOUGLAS KELLNER: The statute didn't change anything. The legislature knew exactly what was in the Court order last year. They did not reverse any of those provisions.

>> PETER KOSINSKI: They didn't put the provisions in either.

>> DOUGLAS KELLNER: They are totally silent on it, which would suggest that they were going to continue those provisions.

>> PETER KOSINSKI: I think that's elite to say they were necessarily embracing the Court order. They don't make mention of the Court order.

>> DOUGLAS KELLNER: There's no restriction in the statute.

There are restrictions.

>> PETER KOSINSKI: There are restrictions in other parts of the statute.

>> DOUGLAS KELLNER: Where, Peter?

There isn't one. You can't.

>> PETER KOSINSKI: Well, where it talks about voters voting in the positively centers.

>> DOUGLAS KELLNER: Where does it say that, Peter?

You're making it up.

>> PETER KOSINSKI: I am not making it up.

>> DOUGLAS KELLNER: You are making it up.

>> PETER KOSINSKI: Unless you fit into a special category, like a special voters, special voter defined in the statute can vote outside their polling site.

But you have to meet a very specific category and not every voter meets that category.

So to say that the statutes allow me, for example, to go to any poll site or a different poll site from my own and vote, I don't think that is correct.

Or if I do that, it says you vote by affidavit ballot, not on a voting machine, but but by affidavit ballot.

That's the provision that the law makes for people who show up at the wrong site to vote, or by court order.

There are specific ways to do it, but this is not one of them that is anticipated by our statutes.

I guess the concern we had was that without the Court order, getting us the legal authority to go forward and say to anybody you can vote outside your poll site, you can vote at these places as well, we didn't have the legal basis so say any voter can do this.

We felt that the statute clearly identifies the people with disabilities as being targeted as a, as the people who can use this.

But those without disabilities didn't have that same legal protection.

>> EVELYN AQUILA: Is that what it says?

Ed says of the procedure?

I thought F meant that people who wanted to use that machine would use the machine, but they would be placed in an affidavit envelope, that's all.

They could be anybody.

>> PETER KOSINSKI: I'm sorry, I missed that.

>> EVELYN AQUILA: F, F, the next page, third page.

>> PETER KOSINSKI: No, I understand, right.

>> EVELYN AQUILA: Credit can't that be anyone who wishes to use that device and if it isn't there, they have it sent as an affidavit.

>> PETER KOSINSKI: The other issue that does come up, these machines are clearly being put out there for our disabled voters and they should be allowed to vote on these.

We want to make sure they are the people being serviced by these voters and it's not people who don't need the device who are using it at the expense of those people who do need the device.

If you have people showing up not disabled using the device and people who are disabled have to wait or can't vote on them because they have to wait too long because others came in, you are disenfranchising the people who are the intended recipients of this benefit.

There's a concern from a policy standpoint that these machines because there are few of them.

>> DOUGLAS KELLNER: Peter, is there a single disability advocacy group who supports that position?

>> PETER KOSINSKI: I don't know.

I haven't talked to any of them.

>> DOUGLAS KELLNER: In fact, every disability advocacy group who's spoken on the issue said they want everybody to be able to use the ballot marking devices and the point that the disability community is making is that they want to use the same equipment as everybody else. They don't want special treatment.

They want the same equipment as everybody else.

I believe we got --

There were three communications that we got today because this was only released yesterday afternoon.

And one of them was from a disability advocacy group saying that, with that position.

If we are not going to be able to resolve this today, then I would suggest that we meet again next Thursday or Friday and in the meantime we see what the disability community has to say on this.

>> EVELYN AQUILA: Bob and I went around during the last election and I will tell you, there were no lines.

I wish there were.

>> PETER KOSINSKI: I'm just going to say, that's one of the issues, but the secondary or most important, the issue I raised initially is the legal authority to extend this right to people who do not seem to be covered by this.

>> DOUGLAS KELLNER: I think just the opposite is the legal issue.

What is our authority to reinstruct this right which is given in the statute without restriction?

Peter, you keep saying that.

I dare you --

I'm asking you to point to the language in the statute na limbs the use of this to persons with particular disabilities.

It just isn't there.

>> PETER KOSINSKI: Well, I think it speaks very clearly of being equipped for individuals with disabilities and provide individuals with disabilities the same opportunity for access to participation.

>> DOUGLAS KELLNER: All it says is that the ballot marking device has to have these features.

But there's nothing in there that says the ballot marking device is only to be used by those people.

And there is nothing in 7202 either.

>> PETER KOSINSKI: I don't think 7202 is relevant to this.

I think 8302 is relevant because it talks about people having to vote in their polling places. If we are going to expand this to, anybody can vote outside of the polling place, I'm just concerned that we are taking this a step beyond what the law provides without the authority of a core order which we clearly had last year to do this.

>> DOUGLAS KELLNER: I say just as strongly that what you are doing is trying to eliminate people's right to vote on these devices without any statutory authority and indeed in contravention of the statute which says that these devices are to be made available in each county.

>> NEIL KELLEHER: Doug, excuse me.

Did I hear you say that all of the handicapped organizations, people that have concerns for disabled, all agree that they would much rather vote like every other voter without having any special consideration?

>> DOUGLAS KELLNER: I have to put that in the negative and say that I have not heard a single organization advocate that these devices should be made available to them and I have heard many organizations say that they want everybody to be able to vote on these devices.

>> EVELYN AQUILA: Neil, may I say something?

>> DOUGLAS KELLNER: Neil has the floor.

>> NEIL KELLEHER: Obviously, I got a couple in the last day or so.

>> DOUGLAS KELLNER: Right.

>> NEIL KELLEHER: I'm talking now about the people representing the disabled.

>> DOUGLAS KELLNER: We have one that I'm aware of that we got today.

Now if I can get my hands on it ... Anna, do you have it?

(Overlapping speakers).

>>: Give me a second.

>>: That's the one that came in.

>> DOUGLAS KELLNER: We got this today.

In addition to this, we've gotten statements from the league of women voters and from New Yorkers for verified voting.

Also advocating that everybody be allowed to use the device.

>> EVELYN AQUILA: Could I say a little something?

>> DOUGLAS KELLNER: Neil has the floor right now.

>> EVELYN AQUILA: Neil, may I have a moment?

>> NEIL KELLEHER: Excuse me, did I get one of these?

>> DOUGLAS KELLNER: Yes, it was handed to you as you came in.

>> EVELYN AQUILA: We just got it as we came in.

>> NEIL KELLEHER: Fine, I got one here.

>> EVELYN AQUILA: See --

>> DOUGLAS KELLNER: Give Neil a minute to read this stuff.

(Pause.)

>> NEIL KELLEHER: I'm looking for the line that says that, indicating that the people who are disabled don't want any special privilege.

I think that's what you said.

>> DOUGLAS KELLNER: I mean, right here.

>> EVELYN AQUILA: They don't want to identify themselves as a person with a disability.

It says it right there.

They would raise privacy not only with voters with disabilities, but have to travel farther and put more effort into voting.

They would have to passively or actively identify themselves as a are person with a disability in order to vote.

On the machine. They don't want to do that.

>> NEIL KELLEHER: I don't see where it specifically --

>> EVELYN AQUILA: Did you read the sentence?

>> NEIL KELLEHER: Show me where it says.

>> EVELYN AQUILA: Second sentence.

This would raise specific privacy concerns.

Not only would people with disabilities have to travel farther and put more effort voting than anyone else but passively or actively identify themselves as a person with a disability in order to vote.

>> NEIL KELLEHER: where does it say in there that we, we the disabled do not want any special consideration, but as Doug says --

>> DOUGLAS KELLNER: Right here.

The paragraph before that.

People with disabilities want to vote in their communities and have their votes counted at the same time as everyone else.

>> NEIL KELLEHER: At the same time.

>> DOUGLAS KELLNER: Right.

>> NEIL KELLEHER: What does that have to do --

>> DOUGLAS KELLNER: The next statement says, it says we have concerns about limiting voting on these machines to be only people with disabilities.

And then the language the Commissioner Aquila just read.

>> NEIL KELLEHER: I still don't see any place in any of these offerings that say our organization or we the disabled do not want any special consideration as far as voting is concerned.

We want to vote the same as everybody else.

If so, why have we spent so much time in the past indicating our concern that there's a need to have a special.

(Overlapping speakers).

>> EVELYN AQUILA: They would like to have a voting machine where everybody could vote on, but had the ability to respond to their disability.

So they didn't have to wear a D on their chest saying I'm a disabled citizen.

They don't want people --

Some people don't care.

But other people don't want the whole world to know.

You don't know whether they have a business, whether they work in a specific job or they are worried about their insurance.

They just want to be able to have a machine that they can vote easily on and accommodate their disability, but they would prefer that to be one big machine that the whole world could vote on.

>> NEIL KELLEHER: We spent --

I'm sorry.

>> EVELYN AQUILA: But we don't have that kind of machine yet.

>> NEIL KELLEHER: We spent a long time and many hours, efforts on the part of staff people at least the years that I have been on this board indicating that there's a

major responsibility to make voting for the disabled a special kind of responsibility.

Because of their disabilities.

And I don't want to sit here today and make a gm that, well, in this particular case anybody can vote.

Someone mentioned a few minutes ago about someone who has a disability standing in line or sitting in line in a wheelchair or something waiting for people to vote ahead of them who are perfectly capable of voting in the normal --

>> EVELYN AQUILA: We all hold to the day that we have a great machine that accommodating everyone.

Some people don't want to have to ask someone to go with them because they can't, they can --

They are blind, they have other problems that they can't reach high because they're in a wheelchair. They want to go in by themselves and vote for who they want and in the real world vote easily, come out and be in their own ED and AD with everybody else.

We haven't. We are not producing that kind of machine yet.

But I also know that many disabled people are very sensitive and they would stay home rather than vote, coming in and voting on a machine that puts separate, just for disabled people. That's my only concern. It comes out of my years being head of committee for disabled children in the district 21 where I was president of the school board many years ago.

They were very sensitive to that.

Yes, they need to be accommodated, but they hate to be put in a separate class.

I think one sentence saying, you know --

>> DOUGLAS KELLNER: Actually, no.

Here is the language.

>> EVELYN AQUILA: If we have to do the --

Doug do you the specific language --

>> DOUGLAS KELLNER: The specific language, I propose that we amend the draft, we delete the words "who are disabled" in paragraph 3A.

Here.

>> EVELYN AQUILA: I'm looking at it, yeah.

>> DOUGLAS KELLNER: This is what would come out.

And then everything else we can live with.

That's my motion.

I would just ask Commissioner Kelleher or Mr. Kosinski, have you --

Kosinski, have you received any communication from the disabled community indicating that this equipment should be restricted to people with disabilities?

>> PETER KOSINSKI: I didn't see anything until I saw what you forwarded here today, I haven't had any communication.

>> DOUGLAS KELLNER: This only went out late yesterday afternoon.

I move my amendment to the draft.

>> EVELYN AQUILA: Could I mention one more thing, plr chairman, just very quickly?

>> DOUGLAS KELLNER: Yes.

>> EVELYN AQUILA: When Bob and I visited these sites last year, we visited how many, Bob?

Four or five?

In Queens particularly there was two people who were leaders of the disabled people who were there and they said this woman took me aside and said Commissioner, we love the machine, it's such an accommodation, but we are glad you're allowing other people to vote so our disabled people don't stand out in the crowd.

There was no crowd.

Some of my people are very sensitive to that.

When we went up to Nassau, we heard the same thing from another gentleman there who said this was very good for the people that he had brought in from whatever that maybe is some kind of an organization that had some kind of programs, but he said it's good that it's a mixed group because it's very hard on them always to be treated like a disabled person.

That they want to be treated like every other citizen.

I heard that twice on that very day last year.

From my years working with the parents of disabled children I know they don't want their children to stick out like a sore thumb.

If we can hide them in a little bit of a crowd it's far better than to isolate them.

I don't want the disabled people to be isolated and not by me because I'm not going

to vote for anything to isolate a disabled person.

I happen to think we are breaking the federal law by doing I'm not a lawyer.

I won't debate either of the two lawyers here.

I will not isolate a disabled citizen.

>> DOUGLAS KELLNER: All right.

>> EVELYN AQUILA: Not that that means anything.

>> DOUGLAS KELLNER: You want to say anything else?

All right, then.

On the attempt to the text, removing the words "who are disabled" from 3A, those in favor?

>> EVELYN AQUILA: Aye.

>> NEIL KELLEHER: No.

>> DOUGLAS KELLNER: Aye.

>> EVELYN AQUILA: Could I add some words on C?

>> DOUGLAS KELLNER: Okay, it's two to one.

I guess from a procedural point of view, that does, the amendment to the text is adopted for the draft, but the draft isn't a doted --

>> EVELYN AQUILA: I would still like to add my words on C.

>> DOUGLAS KELLNER: Go ahead.

What is your proposal?

>> EVELYN AQUILA: I would like to --

>> DOUGLAS KELLNER: C of which paragraph?

>> EVELYN AQUILA: 3C.

And I would just like to add any registered voter who wishes to use the --

I don't know what to say there.

who wishes to vote on this device, voting devices has permission to do so.

>> DOUGLAS KELLNER: I think it's unnecessary.

You already have, if you take out the words who are disabled from 3A, it's already.

>> EVELYN AQUILA: I like to keep in that we do say in order to ensure privacy.

I think it's a good place to put it.

If I'm wrong, I'm wrong.

>> DOUGLAS KELLNER: Do you have the text written?

>> EVELYN AQUILA: What I wrote was any registered voter who wishes to use the voting device may do so.

It may not be correct, if any of the lawyers want to correct that, but you know what I mean. I made it pretty clear.

>> EVELYN AQUILA: I know the disabled voters will like that.

I think it was forgotten.

>> NEIL KELLEHER: Maybe we put a line in there that says: Any disabled person who is apparently disabled in line would be moved to the front of the line for purposes of --

>> EVELYN AQUILA: That's good, that's good.

>> NEIL KELLEHER: Forget it.

You talk about pointing out the disabled! Gee, I can't believe the hours that we spent talking about coming up with amendments to existing laws so people who are really disabled could vote.

And today we are talking about reducing it.

That's special privilege.

That's as clear as can be.

There's no question about it.

>> EVELYN AQUILA: Is it in there?

>> NEIL KELLEHER: I don't want this record to indicate that Commissioner Kelleher voted for restricting or for taking away one of the privileges that were made available to the disabled so that they could vote with special privileges.

I got a feeling that the people in my district would not agree with the people in your district.

Particularly those who have --

>> EVELYN AQUILA: This isn't any district.

We went to five different counties.

>> NEIL KELLEHER: They appreciate the special price and don't want us sitting here today talking about amending any kind of legislation that allows any person who is not disabled at all to go ahead and take advantage of voting on their equipment.

>> DOUGLAS KELLNER: The best way to resolve that is to ask the disabled community to review this.

As I say, this only went out late Wednesday afternoon.

So very few people have had a chance to review this.

That means we have to meet again.

Soon.

We don't have three votes to adopt this today.

I propose next Thursday or next Friday.

>> NEIL KELLEHER: Let's take a look at --

Yeah.

>> DOUGLAS KELLNER: Can we tentatively say Thursday at noon and if you need to change it --

>> NEIL KELLEHER: Yeah.

>> DOUGLAS KELLNER: Meantime, Aquila --

Commissioner Aquila made a motion to add a sentence at the end of 3C, any registered voter who chooses to use the voting device may do so.

Call the question.

>> EVELYN AQUILA: Aye.

>> DOUGLAS KELLNER: I vote aye.

>> NEIL KELLEHER: No.

>> DOUGLAS KELLNER: We'll post the draft on the website.

Peter, if you want to highlight the two amended languages today, that way people can see what was done by the vote of two to one.

That's okay with me.

On how to just publish it.

And then we'll bring it up for a vote at the next meeting which hopefully will be next Thursday.

So let's move on, then.

(Off microphone.)

>>: I have to be out of here at 3:00 o'clock.

Is that possible?

Any way to take that before I leave?

In case there's any questions if.

>> DOUGLAS KELLNER: We can take that next, if that's all right.

The only other issue we had on this was the OBS waiver.

Anna, the --

I think it was circulated two weeks ago, was a long paper that Ms. Novak prepared on the challenging the, challenging the vendors and it went through each of the five vendors who had been submitted for certification on their qualifications to be a New York vendor.

Perhaps we can give Ms. Novak one or two minutes to just summarize what her report was and then I was going to ask what you know OGS has done with that and whether there is anything else that the State board should do with it.

Andrea?

You want to very briefly --

>>: Sure.

>> DOUGLAS KELLNER: what?

>>: You may not have gotten it.

I mailed you a copy by male.

Only Commissioner Kellner has e-mail.

I'm not sure you received it, the memo I addressed to you.

It's a 60-page memo. It goes through the documentation of looking at the proceed consumer laws which require that state agencies only contract with vendors who are responsible as that is defined and looking through the various criteria I documented the ways in which all five of the agencies that you are contemplating doing business with don't qualify, a myriad of ways.

I venture to say it's the tip of the iceberg.

It's not my responsibility or yours or OGSs to do the examination of whether or not these vendors qualify.

It's a rather exhaustive list.

This is a 60-page single space memo.

I think that under the existing documentation which I have taken the stunt to provide, none of the vendors can possibly qualify.

And then that raises the question --

I know you can consider that after the fact.

You could say well, we haven't decided anyone has been certified yet.

Why should we look at it?

I'm suggesting if there's a way to do that investigation of their qualifications, that it be done before you get to the end of the road.

We just would be delaying the HAVA compliance if I'm right.

That's why I brought it to everyone's attention now.

>> DOUGLAS KELLNER: Anna, are you familiar with this?

>> ANNA SVIZZERO: Yes. At the end of the bidding process, OGS does a responsible bidder search and responsible vendor search.

And they compile information from Internet searches, anecdotal information, and submit it to the comptrollers' office and the comptroller's review of the contract, those responsible vendor issues are reviewed by them.

We never got that far with the comptroller's office so we didn't have feedback on what OGS provided to them.

Anecdotally, OGS raised issues with us that they saw on their various Internet searches about vendors failing to provide information in a timely way, but this comes from last summer when the bid process was completed initially.

>> DOUGLAS KELLNER: I asked Todd to jump in.

Does the State board have any jurisdiction on determining the vendor qualifications?

Or sthar strictly an issue for OGS?

>> TODD VALENTINE: It's usually done by OGS.

Any information we have we can certainly forward to them.

But the comptroller's report is done independently of OGS.

They do a separate report on the same issue, but again approval of the contract is still, it is our contract, within our purview.

Ultimately.

>> DOUGLAS KELLNER: My response to the report which is obviously a very --

They put a lot of time into it in their organization in order to prepare this report.

And it is fairly well documented or at least, you know, it's footnoted and cited.

But the allegations are worth reviewing and responding to, but it's in my view not at all conclusive on, with respect to any of the vendors.

But at least there ought to be a public response to this.

And the question is whether it's our place to send it to the vendors and ask them to make a response or whether it's really a function of OGS or the controller to deal with the issue.

>> TODD VALENTINE: Usually it would be OGS at this point.

That's the way we divided that up for procurement. As I said, we can forward this to them and have them --

Because I assume there are other issues that they will look for as part of the vendor responsibility. Primary issue is really to determine the responsibility of the corporations behind it.

That's a very wide ranging search that they do.

And I'm sure any information we can give them that they would have vendors, the vendors respond to if they can be responsive.

>> DOUGLAS KELLNER: That's what I would suggest at this point.

That we not ignore the report but that we recognize that right now OGS has the primary jurisdiction.

>> EVELYN AQUILA: We don't have any power.

>>: To be sure what you're saying, does OGS usually do that initially at the bidding?

Is that not done until after testing certification?

>> ANNA SVIZZERO: It was done at the end of the bidding process at the OG end and they share that with the comptroller.

>>: So they did their work and were satisfied?

>> ANNA SVIZZERO: We didn't hear from the comptrollers' office. We didn't get the process, comment process underway.

>>: I should submit this to OGS?

>> ANNA SVIZZERO: We will forward it.

>> DOUGLAS KELLNER: We will formally forward it to OGS and maybe send a copy to the comptroller so he --

>>: I didn't mean it to be conclusive.

It is not my jobbed to the report.

>> DOUGLAS KELLNER: The report makes a long list of thorough allegations that if completely true actually would be of serious concern.

And since they are so widely reported, it seems to me that there should be, that we as an agency ought to at least address them.

And respond to them.

>>: Then who would --

Just so that I know, because as an attorney I want to know if I have to take necessary action should the decision of the State be contrary to my conclusion, who would I be speaking with?

The comptroller's office?

OGS?

>> ANNA SVIZZERO: At OGS, Laurie bay Han is our contact.

At the comptroller's office, we don't have a contact there.

>>: Thank you, I appreciate it.

>> ANNA SVIZZERO: You're welcome.

>> DOUGLAS KELLNER: The last issue on the agenda is the OVS waiver request.
Open vote, is it OVS or open voting solutions?

>> ANNA SVIZZERO: Open voting solutions, OVS.

>> DOUGLAS KELLNER: They sent a letter addressed to Anna formally requesting that we waive all or a portion of the certification fees.

And I think Anna made a recommendation with respect to that.

Again, I don't see the letter in the materials.

>> ANNA SVIZZERO: It was in the board packet at the last meeting.
I did not provide it again in this packet.

It was provided for information at the last meeting.

>> DOUGLAS KELLNER: Maybe what we should do is put it in the packet for the next meeting especially if we're just meeting next week, next Thursday.

We'll take it up again on Thursday.

>> ANNA SVIZZERO: Okay.

>> DOUGLAS KELLNER: You had a memo, Anna, with a recommendation?
Was that just a --

>> ANNA SVIZZERO: It was his letter.

No, I didn't make a recommendation.

>> DOUGLAS KELLNER: You and Anna ought to at least be prepared to have a list of points in terms of your own recommendation on how we respond to it.

I think that the request is intriguing, although I am not particularly inclined to grant it.

But the discussion of the issues behind the request, I think, would be helpful.

So rather than do it now, we'll wait until next Thursday and do it then.

Are there any other items to discuss? All right, then.

We stand adjourned.

(The meeting concluded at 1:55 p.m. CDT).